

Remarks

Introduction

As a preliminary matter, applicant acknowledges that the above-identified application became abandoned for not filing a response to the April 21, 2004 Office Action by the deadline of October 21, 2004. As indicated herein, applicant submits that the abandonment of the above-identified application was unintentional, and that this Amendment is being submitted with a Petition to Revive an Unintentionally Abandoned Application.

Claims 1-22 were pending. By way of this response, claims 1-22 have been cancelled without prejudice, and claims 23-38 have been added. Support for the new claims can be found in the application as originally filed, and no new matter has been added. Accordingly, claims 23-38 are currently pending.

Statement of Substance of the Interview

On October 29, 2004, a Notice of Abandonment was mailed to applicant's undersigned attorney. The Notice of Abandonment included an Interview Summary regarding a telephonic interview on October 26, 2004.

The Interview Summary Form indicates that the interview was between Examiner Beth Van Doren, Frank Uxa, and Greg Hollrigel. For the record, applicant's undersigned attorney submits that neither he nor Greg Hollrigel spoke directly with the Examiner. On October 26, 2004, applicant's undersigned attorney received a recorded voice message from the Examiner regarding the above-identified application. Applicant's undersigned attorney asked

Mr. Hollrigel to call the Examiner to indicate that a response to the April 21, 2004 Office Action had not been filed. Approximately at 9:15 AM on October 26, 2004, Mr. Hollrigel called the Examiner and left a message indicating that a response was not filed in reply to the April 21, 2004 Office Action. Mr. Hollrigel did not confirm the abandonment of the application, as suggested in the Interview Summary Form.

Applicant agrees that no exhibits were shown and no demonstration was conducted.

Applicant submits that no specific claims were discussed, and that the substance of the message was that a response to the April 21, 2004 Office Action had not been filed.

Applicant agrees that specific prior art was not discussed.

Applicant submits that no principal proposed amendments and no principle arguments were discussed.

The outcome of the interview was that a response to the April 21, 2004 Office Action had not been filed.

Claim Rejections

Claims 1, 2, 12, and 13 have been rejected under 35 U.S.C. § 102(e) as being anticipated by LeVander (U.S. Patent No. 6,216,108). Claims 21 and 22 have been rejected under 35 U.S.C. § 102(e) as being anticipated by Li (U.S. Patent No. 6,609,050). Claims 3-11 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Li in view of LeVander. Claims 14-20 have

been rejected under 35 U.S.C. § 103(a) as being unpatentable over LeVander in view of Li.

Applicant has cancelled claims 1-22. Therefore, applicant submits that the rejections of these claims are moot. Claims 23-38 have been added, and applicant traverses the rejections as they relate to the present claims.

LeVander discloses a mobile management system for the service industry which provides written contract proposals, invoices, and reports on profitability for businesses having one or more user's remotely located from an office, that is one or more users located "in the field" (column 1, lines 5-11; column 6, lines 31-56). LeVander specifically identifies that the service contractors can be business owners, managers, sales people, forepersons, trades people, their employees and subcontractors in the following fields:

awnings/canopies, building/remodeling, carpentry,
carpet installation/cleaning, chimney cleaning, closet
remodeling/closet organizers, decorating,
drywall/sheetrocking, electrical services, excavating,
fencing fire/burglar alarms, flooring, furniture
restoration, glass repair/replacement, handyman
services, home health care, house/office cleaning,
HVAC insulation, interior plantscapes, irrigation
systems, kitchen remodeling, landscaping, locksmith,
masonry, moving, painting, paving, pet restraining
systems, plumbing, pressure washing, roofing/siding,
sandblasting, tiling, tree service, upholstering,
water/damage restoration, waterproofing, welding,
window cleaning, window replacements, window
treatments. (column 5, lines 32-60).

Significantly, the service contractors disclosed by LeVander specifically relate to industries in which the users of the system are located away from a central office or workplace.

Or, in other words, all of the service industries disclosed by LeVander include people located "in the field". The system disclosed by LeVander uses time, expenses, and wages to provide contract proposals or cost estimates for users in the field. The system does not include any type of scheduling system and does not schedule workers and tasks.

Li discloses a computerized vehicle warranty and repair system. The system disclosed by Li includes a repair monitoring system 62 which monitors evaluation of the repair process, such as the repair process of the engine components of a vehicle which may be covered under warranty (column 3, lines 17-31). The system includes a scheduler module 43 that permits the repair processing module 40 to schedule the vehicle for service at a specific date and time based on the selected dealer location and the service dealer database (column 4, lines 43-46). In the system disclosed by Li, a customer can select the date and time for servicing the car (column 6, line 59). A work order is created and the standard number of hours and costs associated with performing work is obtained so that a standard cost in hours to service the vehicle can be used by service shops throughout the entire country (column 7, lines 30-35).

Importantly, the system disclosed by Li does not estimate a completion time for repair. The system disclosed by Li enables a date and time for service of a car to begin, and provides a cost estimate for the service based on a "standardized" number of labor hours or hours worked. The system disclosed by Li does not monitor or examine any idle time, such as non-work time, and does not provide an estimated completion time for repair of the car which includes such idle time. As understood by persons of

ordinary skill in the art, the owner of the car being serviced is notified when the service is completed, for example by a phone call from the service shop to the car owner.

As understood by persons of ordinary skill in the art, service shops, such as the service shop disclosed by Li, estimate completion times by using completion times that are independent of a given service shop, or the employees at that service shop. For example, a service shop in California will obtain the same estimated completion time as a service shop in Nevada, even though such service shops have different employees with different qualifications and experience. These service shops utilize a national standard of completion times for repairs of vehicles, or in other words, these service shops, including the service shop disclosed by Li, use "standardized hours" to address a particular customer's need (see Li at column 8, lines 13-14).

Applicant submits that neither LeVander nor Li, taken alone, or in any combination, disclose, teach, or suggest the present invention. For example, LeVander or Li, taken alone, or in any combination, do not disclose, teach, or even suggest a computerized method or system for estimating a completion time for a repair of an automobile in an auto body shop.

As discussed above, LeVander specifically discloses a management system for industries other than auto body shops, such as industries in which users of the system are located in the field as compared to being located at a shop. Li specifically discloses a warranty and repair system for a car service shop, not an auto body shop.

Applicant submits that important differences and distinctions are apparent between auto service shops and auto body shops. For example, auto service shops only work on mechanical components of a car such as the engine, transmission, brakes, and the like. There are not multiple different departments in service shops, or stated differently, each service shop may include a plurality of bays for cars, where any service repair can be made in any bay. In comparison, auto body shops, such as auto body shops which use the presently claimed systems and methods, include different and distinct departments, such as a body work department for repairing body damage of a car, a paint work department for painting the repaired body, and a color sand/buff department for providing a finished appearance to the painted repaired body. In addition, auto body shops are more tightly regulated and monitored by outside agencies, such as insurance companies, than service shops who are primarily influenced by the owner of the car requesting repair. Thus, applicant submits that scheduling systems and the like, including the presently claimed systems and methods of using such systems, for auto body shops are different and distinct from systems which may be used in auto service shops, such as the shops disclosed by Li.

Furthermore, applicant submits that LeVander or Li, taken alone, or in any combination, does not disclose systems or methods which use a computer to examine auto body repair data present in a database, let alone data which includes pre-work idle time, actual repair time, and department idle time of automobiles in need of a given repair in a given auto body shop, as recited in the present claims. As discussed above, LeVander

or Li, taken alone, or in any combination, does not disclose, teach, or even suggest any system or method used in an auto body shop, let alone, such a system or method which uses a computer to examine auto body repair data, as recited in the present claims.

In addition, applicant submits that LeVander or Li, taken alone, or in any combination, does not disclose, teach, or even suggest systems and methods which determine average time periods from auto body repair data present in a database, or determining the sum of the average time periods is estimating the completion time of a given repair of an automobile in a given auto body shop, as recited in the present claims.

As discussed above, LeVander discloses a management system for users in the field. The teachings of LeVander are not even remotely related to the presently claimed methods and systems since the users of the presently claimed methods and systems are located at the auto body shop. The LeVander system does not include a scheduling component which permits the average time periods and the sum of the average time periods to be determined in estimating the completion time of the given repair.

Similarly, Li is deficient because Li discloses a system which uses "standardized" times and costs for "performing the work". Li does not disclose times or costs which are specific for a given auto service shop, and does not disclose estimation of a completion time for a repair, let alone the use of any idle time in determining such a completion time. Li does not disclose, teach, or even suggest estimating a completion time of a repair, let alone systems and methods which determine average

time periods and the sum of the average time periods in estimating the completion time of a given repair of an automobile in a given auto body shop.

The Office Action contends that Li discloses consideration of total average idle time for all selected employees, and points to FIGS. 4, 9, and 17, column 3, lines 15-31; column 4, lines 35-55; and column 6, lines 40-65 to support that contention. Applicant vigorously disagrees with the interpretation of the disclosure of Li.

Column 3, lines 15-31 discusses a repair monitoring system 62 which monitors the evaluation of the repair process. A score of the technician is obtained, and those scores of the technician's performance may be averaged. This disclosure is not even remotely relevant to average idle time, or any idle time. This disclosure is specifically directed to how well a step is performed (column 3, lines 18-19).

Column 4, lines 35-55 describes a repair processing module 40 and a scheduler module 43, which permits a vehicle to be scheduled to begin service at a specific date and time. The date and time service can begin is based on the selected dealer location, and technician availability and qualification. This portion of Li does not include any disclosure whatsoever of idle time, let alone average idle time, or completion time.

Column 6, lines 40-65 of Li describes an analytical component of the system which analyzes or diagnoses a problem described by a customer. This disclosure refers to FIG. 9 and states that "it will consume an estimated one hour of time to

perform the analysis". Thus, in reference to FIG. 9, as identified in the Office Action, the time is for analysis, not completion of repair. FIG. 17 shows a completion time for an additional task, i.e., not a repair. Specifically, FIG. 17 shows that the task of calling Mr. Smith should be completed by 2:00PM.

In addition, applicant submits that a person of ordinary skill in the art would not be motivated to combine the teachings of LeVander and Li, let alone to do so and obtain the presently claimed invention. As discussed above, the systems of LeVander and Li are different and distinct, one from the other. LeVander discloses a mobile management system for people who are in the field or away from the office. LeVander does not disclose that the system can be used in any automotive facility, let alone an auto body shop as recited in the present claims, since automotive facilities do not have technicians located away from the shop. Li discloses a system for an auto service shop in which the users of the system are located at the service shop. In addition, the system disclosed by LeVander does not include any type of scheduling system, which is a requirement for the system disclosed by Li. Thus, applicant submits that due to the different and distinct nature of the systems of LeVander and Li, a person of ordinary skill in the art would not be motivated to combine the two references.

Applicant also submits that each of the present dependent claims is separately patentable over the prior art. For example, none of the prior art disclose, teach, or even suggest the present methods and systems including the additional feature or features recited in any of the present dependent claims.

Therefore, applicant submits that each of the present claims is separately patentable over the prior art.

Thus, applicant submits that the present claims are not anticipated by the prior art, including LeVander or Li, since neither LeVander nor Li specifically disclose each and every element recited in the present claims. In addition, applicant submits that the present claims are not obvious over LeVander or Li, taken alone, or in any combination, since there is no motivation to combine the references, and even if the references could be erroneously combined, the combination of references fails to disclose, teach, or even remotely suggest all of the elements recited in the present claims.

In view of the above, applicant submits that the present claims, that is claims 23-38 are not anticipated by LeVander or Li under 35 U.S.C. § 102, and are unobvious from and patentable over LeVander or Li, taken alone or in any combination, under 35 U.S.C. § 103.

Conclusion

In conclusion, applicant has shown that the present claims are not anticipated by and are unobvious from and patentable over the prior art under 35 U.S.C. §§ 102 and 103. Therefore, applicant submits that the present claims, that is claims 23-38 are allowable. Therefore, applicant respectfully requests the Examiner to pass the above-identified application to issuance at an early date. Should any matters remain unresolved, the Examiner is requested to call (collect) applicant's attorney at the telephone number given below.

Date: Nov. 24, 2004

Respectfully submitted,



Frank J. Uxa
Attorney for Applicant
Registration No. 25,612
4 Venture, Suite 300
Irvine, California 92618
(949) 450-1750
(949) 450-1764 Facsimile